BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 93-503-C - ORDER NO. 95-2

JANUARY 5, 1995

IN RE:	Investigation of Level of Earnings of Southern Bell Telephone and Telegraph Company	) ORDER RULING ON PETITIONS) FOR REHEARING AND) RECONSIDERATION, RULING ON) PETITION FOR RECONSIDERATION,) RULING ON COMMENCEMENT OF) INTEREST, AND SETTING ISSUE) ON ADDITIONAL LOCAL SERVICE) REDUCTIONS FOR HEARING

This matter is before the Public Service Commission of South Carolina (the Commission) on the Petitions for Rehearing and Reconsideration filed by Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) and the Consumer Advocate for the State of South Carolina (the Consumer Advocate) and the Petition for Reconsideration filed by AT&T Communications of the Southern States, Inc. (AT&T). All three Petitions were filed in response to Order No. 94-1229 (December 5, 1994), Order Ruling on Investigation. In addition, this matter is before the Commission for the determination of when interest should commence on the refund due to the Company's ratepayers and on the Company's proposed plan to lower local service rates by the $6,444,058, the balance remaining after the rate reduction specified by Order No. 94-1229.

PETITIONS FOR REHEARING AND RECONSIDERATION

PETITION FOR RECONSIDERATION

Southern Bell contends the Commission erred by disallowing the expenses incurred during the 1992 review period for MemoryCall Service. Southern Bell asserts that the Commission's reason for denying the Company's MemoryCall Service expenses was not proposed by any witness during the hearing and, therefore, the Commission's decision is not supported by the substantial evidence of record. Further, Southern Bell asserts that the Commission's failure "to recognize expenses incurred in providing the customers of Southern Bell with a regulated service offering constitutes a taking of property" in violation of the United States and South Carolina Constitutions. The Commission disagrees.

In Order No. 94-1229, the Commission disallowed the impact of MemoryCall Service during the 1992 review period. This conclusion is supported by the evidence of record. In the Commission Staff Report, the Commission Staff proposed "to eliminate the impact of MemoryCall in this case due to the developmental nature of this service during the test year." Hearing Exhibit 1 at pps. 9 and 21. During the review period, Southern Bell experienced large losses from the service. The Commission concluded "the 1992 revenues, expenses, and rate base associated with MemoryCall Service do not fairly reflect the normal, going forward level of revenues, expenses, and rate base associated with the service." Order, p. 7.

It is well established that the purpose of test year figures is to reflect typical operating conditions of a utility. "Where an unusual situation exists which shows that the test year figures are

atypical and thus do not indicate future trends, the Commission should adjust the test year data." Hamm v. South Carolina Public Service Commission, ___ S.C. ___, 422 S.E.2d 110, 114 (1992), citing Parker v. South Carolina Public Service Commission, 280 S.C. 310, 313 S.E.2d 290 (1984).

The Commission's decision to disallow the large losses for MemoryCall Service during its start-up year is supported by the evidence of record. Further, its decision is appropriate as the losses and associated rate base during the initial year of MemoryCall Service do not reflect the ongoing level of expenses and rate base for the service. Consequently, the Commission denies Southern Bell's Petition for Rehearing and Reconsideration on this issue.

Southern Bell, the Consumer Advocate, and AT&T challenge the Commission's decision to allow the Company to recover one-half of the losses resulting from Area Plus Service. The Consumer Advocate and AT&T assert that in a stipulation entered into between Southern Bell, AT&T, the Consumer Advocate, and other parties, the Company agreed not to seek rate relief for any losses associated with Area Plus and that Southern Bell's inclusion of losses in this review violates the parties' agreement. Southern Bell contends that the Commission should have allowed recovery of all of the expenses associated with Area Plus. The Commission disagrees with both of these arguments.

By Order No. 94-342 (April 14, 1994) in Docket No. 93-176-C, the Commission approved the stipulation of the parties which dismissed the appeals from the Order of the Commission approving

Southern Bell's Area Plus Plan. In relevant part, the stipulation states as follows:

> 10. BellSouth will not come before this Commission requesting rate relief for any possible losses resulting from the introduction of Area Plus service, the execution of the Area Calling Plan Principles Agreement, or this Stipulation.

The Commission concludes that the current proceeding was initiated by the Commission Staff to investigate the 1992 earnings of Southern Bell after the South Carolina Supreme Court found the generic incentive regulation plan unlawful and the parties to Southern Bell's specific incentive regulation plan signed a Consent Order agreeing to reversal of the plan. The Commission finds that, while recovery of Area Plus expenses by Southern Bell may arguably constitute rate relief, Southern Bell did not initiate a request for rate relief but responded to the Commission Staff's investigation. Southern Bell's action in this proceeding simply did not constitute a violation of the parties stipulation. Further, as a result of this proceeding, Southern Bell did not receive any rate relief but, instead, had its rates lowered by $25,973,746. The Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration and AT&T's Petition for Reconsideration on this issue.

Moreover, the Commission concludes that allowing one-half of the losses allocated with Area Plus was appropriate. Area Plus was not offered until the last quarter of 1994. While it found the testimony concerning the Company's anticipated losses credible, in other words, that the Company may initially incur losses for Area Plus, the Commission nonetheless determined that, until it had some

actual experience on Area Plus, one-half of the losses should be borne by the ratepayers and one-half of the losses should be borne by the Company's shareholders. The Commission concludes this decision fairly protects the interests of the ratepayers since the actual effect of Area Plus on the Company's operations is not yet known and measurable and, at the same time, recognizes the customer demand for the service without unduly penalizing the Company's shareholders.

In addition, the Commission notes that Southern Bell did not dispute the Commission's decision to allow recovery of only one-half of its Chamber of Commerce dues. The Commission finds that Southern Bell's dispute with recovery of one-half of its Area Plus expenses is inconsistent with its acceptance of one-half of its Chamber of Commerce dues. The Commission denies Southern Bell's Petition for Rehearing and Reconsideration on this issue.

Southern Bell asserts that the Commission erred by establishing five year amortization periods for certain expenses such as SFAS 112 and environmental clean-up costs. Southern Bell contends these five year periods are inconsistent with the two year periods utilized in previous Commission proceedings and recommended by Southern Bell in this proceeding. The Commission finds Southern Bell's argument unpersuasive.

First, the Commission notes it is prohibited from solely relying on an established practice to support a decision. Hamm, supra. at 114. Consequently, the Commission concludes that adopting two year amortization periods because those periods were used in previous decisions is inappropriate.

Second, the Commission concludes its decision to use five year amortization periods for SFAS 112 and environmental clean-up costs is fully supported by the substantial evidence of record. Commission Staff witness Ellison testified that he recommended that SFAS 112 transition costs be amortized over five years to normalize the test year. Tr. Vol. 1, p. 91, lines 2-4. He also testified that environmental clean-up costs should be amortized over a five year period. Tr. Vol. 1, p. 80, lines 13-16.

For these reasons, the Commission denies Southern Bell's Petition for Rehearing and Reconsideration on this issue.

Southern Bell contends that the Commission's decision ordering rate reductions of $25,973,746 is erroneous because of the accounting and cost of capital decisions addressed in its Petitions for Rehearing and Reconsideration. The Commission disagrees.

As fully addressed by this Order, all decisions in Order No. 94-1229 were fully supported by the evidence of record and the applicable law. Consequently, the rate reduction which results from the Commission's decision was proper. The Commission denies Southern Bell's Petition for Rehearing and Reconsideration on this issue.

Southern Bell contends the Commission's Order requiring the Company to refund $36,282,603 earned in 1992 constitutes retroactive ratemaking, exceeds the Commission's statutory authority, and, therefore, is illegal. The Commission disagrees.

By Application filed October 31, 1990, Southern Bell applied for permission to enter into incentive regulation. By Order Nos. 91-595 (August 20, 1991) and 92-89 (February 24, 1992) in Docket

No. 90-626-C, Southern Bell entered into its incentive regulation plan[1] effective January 1, 1992 with a rate of return on common equity of 13.0%. Thereafter, the South Carolina Supreme Court reversed the generic IRP previously adopted by this Commission for telephone utilities under its jurisdiction. South Carolina Cable Television Association v. Public Service Commission of South Carolina, ___ S.C. ___, 437 S.E.2d 38 (1993). The Supreme Court found the Commission lacked the statutory authority to establish the IRP as adopted.

After the Supreme Court issued its opinion reversing the Commission's generic incentive regulation plan as unlawful, id., the parties who had appealed Southern Bell's specific IRP entered into a Consent Order with the Circuit Court reversing the Southern Bell specific incentive regulation orders "inasmuch as they permit Southern Bell to operate under an incentive regulation plan as set forth in those orders." See, Consent Order dated December 6, 1993.

In Hamm v. Central States Health and Life Company of Omaha, 299 S.C. 500, 386 S.E.2d 250 (1989), the South Carolina Supreme Court addressed the principles applicable to the ordering of refunds by regulating authorities. The Court stated as follows:

> ...[w]hen a regulated company requests a rate increase which is approved by the regulating authority, but timely appealed and found to be unlawfully established, that company cannot keep funds to which it was never entitled. This is a matter of public policy and such reasoning would apply no matter what regulated industry is involved. Id. at 254.

Although Southern Bell did not specifically seek a rate

1. At times, the Commission will dominate the term incentive regulation plan as IRP.

increase in October 1990, the Commission concludes that Southern Bell's request to avail itself of incentive regulation was similar to an application for a rate increase in that Southern Bell applied for the opportunity to retain those earnings it could attain above its authorized rate of return. The Commission approved Southern Bell's request to enter into incentive regulation and set its benchmark rate of return on common equity at 13.0%. The Consumer Advocate, the South Carolina Cable Television Association, Inc. (SCCATV), and Southern Bell filed timely appeals. Ultimately, the South Carolina Supreme Court determined that the Commission's generic IRP was unlawful and the parties to Southern Bell's specific IRP consented to the reversal of the Southern Bell IRP orders insofar as they established an IRP for the Company.

The Commission finds that Southern Bell is not entitled to keep funds in excess of 13.0% earned under its IRP. The Supreme Court determined the generic IRP was unlawful. The parties to Southern Bell's specific IRP, including the Company, signed a Consent Order reversing Southern Bell's participation in incentive regulation. Southern Bell should not be permitted to keep funds to which it was never entitled. Hamm, Id. Consequently, in Order No. 94-1229, the Commission correctly ordered Southern Bell to refund earnings in excess of 13.0%.[2] The Commission denies Southern Bell's Petition for Rehearing and Reconsideration on this issue.

Southern Bell contends the Commission erred by granting the SCCATV and Consumer Advocate's Joint Motion in Limine excluding the

2. Southern Bell's specific rate of return on common equity of 13.0% was not challenged by any of the parties and was not reversed by the Consent Order.

pre-filed testimony of Gregory B. Adams. Southern Bell asserts that witness Adams' testimony should have been admitted to rebut the assertions by other witnesses that the Commission should order refunds. The Commission disagrees.

During the proffer of his testimony, witness Adams, a Professor of Law at the University of South Carolina School of Law, testified that he had reviewed the applicable legal authority on whether the Commission could order a refund. He explained that it was his legal opinion that ordering refunds would constitute retroactive ratemaking. Tr. Vol. 4, p. 127, line 16 - p. 128, line 21.

The Commission concludes it properly excluded witness Adams' testimony from this proceeding. It is clear that witness Adams' testimony was offered to establish the legal conclusion that this Commission does not have the legal authority to order refunds under the circumstances of this case. Clearly, this testimony was improper. O'Quinn v. Beach Associates, 272 S.C. 95, 249 S.E.2d 734, 740 (Testimony offered to establish a conclusion of law within the exclusive province of the court is properly excluded). The Commission denies Southern Bell's Petition for Rehearing and Reconsideration on this issue.

The Consumer Advocate argues the Commission erred by amortizing Southern Bell's SFAS 106 transition costs over fifteen (15) rather than twenty (20) years as it had proposed. The Consumer Advocate contends that the Commission utilized a twenty (20) year recovery period for transition cost recovery for other utilities and the same period should be applied to Southern Bell.

The Commission disagrees.

The Commission concludes its decision to allow the recovery of transition costs over fifteen (15) years is appropriate. The Commission finds, and the evidence of record supports,[3] that the fifteen (15) year period is a more accurate matching of the transition costs associated with the Company's employees average remaining service life and the ratepayers who are receiving the services of those employees. The Commission concludes that, for Southern Bell, fifteen (15) years is more representative of the remaining service lives of its employees than the SFAS standard twenty (20) years.[4] Further, this Commission cannot solely rely on an established practice to support a decision. Hamm, supra. Consequently, the Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

The Consumer Advocate contends the Commission erred by adopting the Staff's proposed salary and wage adjustment instead of adopting his own salary and wage proposal. The Consumer Advocate's adjustment includes known and measurable management and non-management salary and wage increases and reductions in employee levels through June 30, 1994.

The Staff's adjustment included known and measurable management and non-management salary and wage increases and reductions in employee levels through December 31, 1993. Staff witness Ellison testified that the Staff did not include the

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3. See, Tr. Vol. 1, p. 119, lines 3-21.

4. SFAS 106 allows the amortization of transition benefits over either the average remaining service life of the Company's workforce or twenty (20) years.

average salary and wage increase of 2.13% for non-management employees resulting from the August 1994 union contract between BellSouth Telecommunications, Inc. and the Communications Workers of America because Staff could not determine the level of employees at August 1994. Mr. Ellison testified that applying the average union salary and wage increase of 2.13% to the June 30, 1994 level of non-management employees as reflected in Consumer Advocate witness Miller's testimony results in approximately the same adjustment as the Staff's adjustment based on December 31, 1993 wage levels. Tr. Vol. 1, p. 117, line 21 - p. 119, line 2.

The Commission concludes the Staff's adjustment at December 31, 1993 properly represents the known and measurable level of employees and the known and measurable management and non-management salary and wage increases. The Commission concludes that the Consumer Advocate's proposed adjustment does not include the salary and wage increases given in August 1994 resulting from the known and measurable non-management union contract. Consequently, although the Consumer Advocate's adjustment includes updated employee levels, it does not include updated salary and wage increases. Moreover, the Commission finds, and the testimony so supports, that the Staff's adjustment results in approximately the same salary and wage expense as the Consumer Advocate's adjustment with the additional 2.13% increase due to the union contract. The Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

Both Southern Bell and the Consumer Advocate assert the Commission erred in its ruling on refinancing costs. Southern Bell

asserts the Commission should not have amortized the expenses associated with refinancing over the life of the new debt issues. The Consumer Advocate asserts the Commission Staff's accounting method, adopted by the Commission, inappropriately increases the Company's cost of capital twice. The Commission disagrees with both of these arguments.

The Commission Staff adjusted the Company's capital structure to reflect the costs incurred by Southern Bell to obtain refinancing. Specifically, the Commission Staff included the unamortized refinancing cost as a component of the long term debt portion of the capital structure to reflect Southern Bell's actual net long term debt. Consequently, the Company's total long term debt was reduced - thereby increasing the Company's common equity ratio. The Commission Staff also included the actual amortization of the refinancing in the cost of debt. These two adjustments result in a proper reflection of the refinancing on the Company's books and records. Finally, the Commission Staff included the unamortized portion of the refinancing costs in the Company's rate base, thereby allowing Southern Bell to earn a return on the funds it invested in obtaining refinancing.

The Commission concludes this calculation properly reflects the updated cost of debt and allows the Company a return on its investment. By allowing the Company a return on its investment, this methodology encourages a utility to refinance high cost debt which, of course, benefits the ratepayers. The Commission recognizes that the Company lowered its embedded cost rate from approximately 8.53% at December 31, 1992 to 7.47% at May 31, 1994

through its refinancng efforts. However, the methodology also protects ratepayers from incurring all of the expenses resulting from refinancing costs in one year or over some other short time period. The Commission denies the Company's Petition for Rehearing and Reconsideration on this issue.

Moreover, the Commission disagrees that by decreasing the total long term debt and increasing the embedded cost rate, the Commission has increased the Company's cost of capital twice. Instead, the Commission's methodology properly reflects Southern Bell's actual capital structure. The Consumer Advocate's own witness, Dr. Legler, testified the Commission Staff's method of adjusting the long term debt balance by the amount of refinancing costs was proper. Tr. Vol. 4, p. 27, line 19 - p. 28, line 4. Accordingly, the Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

The Consumer Advocate contests the Commission's adoption of the Commission Staff's customer growth adjustment. The Consumer Advocate argues that the Commission mischaracterized his customer growth adjustment. The Commission disagrees.

The Commission notes that the Consumer Advocate determined customer growth by subtracting Southern Bell's average growth in access lines from January 1, 1992 through December 31, 1992 from the number of access lines at June 30, 1994, and then divided this number by the same 1992 average access lines. Tr. Vol. 3, p. 47, lines 10-14. The Commission's Order accurately describes this calculation. Order, pps. 27-28.

In determining its customer growth adjustment, the Commission

Staff subtracted Southern Bell's average growth in access lines from January 1, 1992 through May 31, 1994 from the Company's access lines at May 31, 1994, and then divided this number by the same January 1, 1992 through May 31, 1994 average access lines. The Commission considers this calculation appropriate as it fairly reflects the average growth in access lines from the beginning of the review period until May 31, 1994. The Consumer Advocate's method limits the average growth in access lines to the 1992 review period. The Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

The Consumer Advocate contends the Commission erred by not adjusting the Company's 1992 uncollectible expense to the level represented by BellSouth Telecommunications, Inc.'s system-wide uncollectible ratio. The Consumer Advocate asserts the Commission should have adopted his proposal because Southern Bell's 1992 write-offs were more than calendar years 1989-1991 and 1993. The Commission disagrees.

Although Southern Bell's 1992 uncollectible expense may have been more than other years, the Commission concludes it properly used the actual review period uncollectible expense in this case. The Commission concludes that the Consumer Advocate's proposal to apply the system-wide uncollectible ratio to Southern Bell produces a less reliable uncollectible expense than use of the actual review period expense. There is no evidence that the demographic and economic characteristics of the customers of nine state BellSouth Telecommunications, Inc. reflect the demographic and economic characteristics of the customers of Southern Bell. Therefore, the

Commission finds the record does not establish that BellSouth Telecommunications, Inc.'s write-off ratio is applicable to Southern Bell. Consequently, the Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

The Consumer Advocate contends the Commission erred by not adjusting the Company's expenses allocated from BellSouth to reflect the findings of a regional audit conducted by the BellSouth Policy Management Group. The Commission disagrees.

The Commission concludes it would be inappropriate to adopt the findings of an audit not conducted by any party of record in this proceeding. Although the Commission Staff participated on a limited basis in the audit, the audit was prepared by a group fully independent of this Commission. Moreover, the Commission has yet to be presented the results of the audit. Accordingly, the Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

The Consumer Advocate challenges the Commission's adoption of the cash working capital adjustment proposed by the Company and the Commission Staff. The Consumer Advocate suggests that, instead of using the formula method proposed by Southern Bell and the Commission Staff, the Commission should have determined the Company's cash working capital allowance through a lead-lag study. The Commission disagrees.

The Commission concludes that since no lead-lag study for the 1992 review period was offered by the Consumer Advocate and the Consumer Advocate witness Miller testified that the Company's 1993

lead-lag study was incomplete[5] and not applied to the 1992 data, the Commission has insufficient information by which to consider the use and application of a lead-lag study. Therefore, the Commission denies the Consumer Advocate's Petition for Rehearing and Reconsideration on this issue.

AT&T argues the Commission should not have granted Southern Bell's request to establish a casualty reserve fund to insure itself against losses due to weather disasters or catastrophes. AT&T admits that the testimony of record substantiates the likelihood by which hurricanes might be expected to strike South Carolina, but argues the record does not support the frequency in which hurricanes might strike Southern Bell territory. The Commission disagrees.

The Commission concludes the evidence of record is replete with testimony and exhibits which indicate the likelihood in which major hurricane activity would strike Southern Bell's service area. As explained by Company sponsored witness O'Sullivan, in developing his Outside Plant Hurricane Analysis, O'Sullivan plotted the exposure rating, comprised of the storm frequency and severity, for each county in South Carolina for the last 100 years. In addition, witness O'Sullivan developed a chart which indicates the number of times a storm struck different regions of the State from 1900 to 1993 and the casualty loss estimates during those years. See, Hearing Exhibit 14. The public records on file with this Commission indicate that Southern Bell serves a major portion of the South Carolina coastline and most of the interior of this

5. Tr. Vol. 3, Miller, at 80, lines 3-5.

State. Consequently, the Commission finds the evidence sufficiently indicates the likelihood in which hurricanes may strike Southern Bell territory.

Further, the Commission again states that the casualty reserve fund establishing a $10 million annual self-insurance fund, up to $50 million, is clearly in the best interests of Southern Bell's ratepayers. The evidence of record indicates that, in today's insurance market, Southern Bell would pay annual premiums of $7.5 to $9 million and, in the event of a loss, absorb a deductible of $50 million and then be required to pay an additional $7.5 million to $9 million as a reinstatement payment. Tr. Vol. 5, p. 60, line 16 - p. 61, line 3. The Commission concludes that the casualty reserve fund clearly benefits the Company's ratepayers. Accordingly, the Commission denies AT&T's Petition for Reconsideration on this issue.

Lastly, AT&T submits that the Commission should apply the excess revenues resulting from reversal of its Area Plus Service and casualty reserve fund rulings to reduce access charges. Since the Commission has not reversed its decision on these two issues, the Commission finds this argument moot. Therefore, the Commission denies AT&T's Petition for Reconsideration on this issue.

Both Southern Bell and the Consumer Advocate challenge the Commission's finding of 13.00% as the appropriate rate of return on equity. Southern Bell asserts that the credible evidence of record supports only a finding of 13.87%. The Consumer Advocate states its belief that a finding of 13.00% is too high, based on the evidence, and that a finding within the 11.50% to 12.50% is all

that is supported by the evidence. Of course, Southern Bell believes that the only credible evidence is found in the testimony of its witness Dr. Billingsley, while the Consumer Advocate believes that the only appropriate evidence comes from the testimony of Drs. Legler and Spearman.

Dr. Billingsley applied a Discounted Cash Flow analysis and a Risk Premium analysis to determine the appropriate return on equity. The Discounted Cash Flow analysis produced a cost of equity in the range of 12.97% to 13.14%. The Risk Premium analysis resulted in a return on equity ranging from 14.65% to 14.68%. Dr. Billingsley recommended a range for the return on equity of 13.06% to 14.67%, with a midpoint of 13.87%. A stock flotation cost adjustment of 15 to 27 basis points was included in his estimates.

Dr. Legler utilized a Discounted Cash Flow analysis, a Risk Premium analysis, and a Capital Asset Pricing Model analysis. The Discounted Cash Flow analysis produced returns on equity ranging from 9.6% to 14.43%. The Risk Premium analysis resulted in returns on equity in the range of 10.81% to 12.03%. Based on the Capital Asset Pricing Model analysis, the return on equity ranged from 12.00% to 14.52%. Dr. Legler recommended a return on equity of 11.5% to 12.0%. No flotation cost adjustment was included in his recommendation, as Dr. Legler believed such an adjustment to be unnecessary. Dr. Legler's upper range may be attributable to a group of independent telephone companies as stated in Dr. Legler's studies, but that range is still worthy of consideration in our determination of the cost of equity, despite that criticism.

Dr. Spearman applied a Discounted Cash Flow analysis and a

Capital Asset Pricing Model analysis. The Discounted Cash Flow analysis produced a return on equity in the range of 7.68% to 15.09%. Based on the Capital Asset Pricing Model analysis, the return on equity ranged from 11.87% to 12.71%. Dr. Spearman recommended a return on equity in the range of 12.0% to 12.5%. No flotation adjustment was included as Dr. Spearman determined that neither Southern Bell nor its parent company has recently publicly issued common stock or intends to publicly issue stock in the next few years and, therefore, a flotation cost adjustment would be inappropriate.

The Commission notes that each of the witnesses based their analyses on data from the summer of 1994. Economic conditions and actions by the Federal Reserve Board have resulted in much uncertainty in the financial markets. Long-term interest rates have risen approximately 50 basis points since these analyses were performed and many analysts forecast further increases in interest rates. It is up to the Commission to determine what weight to afford any data offered in the expert testimony presented to it. Also, although the Commission agrees that changes in economic markets since the close of the hearing are not in the record of this case, we believe that we are entitled to take judicial notice of such market conditions in our determinations. The Commission cannot operate in a vacuum as to what is going on in world markets while it makes its decisions. The Commission must and has afforded the proper weight to this consideration.

Therefore, arriving at the appropriate rate of return on equity demands that the Commission apply its judgment and weigh the

benefits versus the disadvantages of the various methodologies. Based on the evidence presented by the witnesses and current economic conditions, the Commission adopts a 13.0% return on common equity as appropriate for the setting of rates for Southern Bell. The Commission also determines that no flotation cost adjustment is warranted at this time. A 13.0% return on equity allows for the uncertainty in the financial markets and rising interest rates which have occurred since the return on equity analyses were performed. It also falls at the lower end of witness Dr. Billingsley's recommended range when flotation costs are excluded. The Commission agrees with Dr. Spearman's position that no issuance costs should be allowed, due to the lack of any issuance of stock in the near past and the doubtfulness of such issuance in the near future. Tr. Vol. 2, Spearman, at 62-63. Although a 13.0% return on equity is above the recommended ranges of both witness Dr. Legler and witness Dr. Spearman, it is within the upper limits determined by their analyses.

The Commission considers the value of 13.0% to represent a reasonable expectation for the equity owner, and, therefore, consistent with the standards in the Hope decision. A rate of return on rate base found fair and reasonable is sufficient to protect the financial integrity of the Company, to preserve the property of the investor, and to permit the Company to continue to provide reliable services to present and future customers at reasonable rates.

In summary, the Commission rejects the contentions of both Southern Bell and the Consumer Advocate, and reaffirms its finding

of 13.00% as the proper rate of return on equity. The Petitions for Rehearing and Reconsideration of Southern Bell and the Consumer Advocate must, therefore, be denied as to this point.

COMMENCEMENT OF INTEREST

The Commission finds and concludes that interest at 12% per annum on the ordered refund shall begin to accrue at December 31, 1992.[6] December 31, 1992 is the end of the review period for which the $36,282,600 refund was ordered. Moreover, at December 31, 1992, the Company's overearnings and subsequent refund were clearly known.

LOCAL SERVICE REDUCTIONS

The Commission has reviewed Southern Bell's proposal to reduce local service rates by the balance of the rate reduction, $6,444,058, and the comments of various parties in response. The Commission finds that a hearing should be set on this issue and directs the Commission Staff to set this matter for hearing.

IT IS THEREFORE ORDERED AS FOLLOWS:

1. Southern Bell's and the Consumer Advocate's Petition for Rehearing and Reconsideration are denied. AT&T's Petition for Reconsideration is denied.

2. Interest at 12% per annum on the ordered refund shall begin to accrue at December 31, 1992.

3. A hearing shall be scheduled to address Southern Bell's proposal to reduce local service rates by the balance of the rate reduction.

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6. As stated in Order No. 94-1229, the Company may choose not to issue the refund until all appeals, if any, are exhausted. Interest, however, shall accrue on the refund until all appeals are

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Rudolph Mitchell
CHAIRMAN

ATTEST:

Executive Director

(SEAL)

(Footnote 6 continued from previous page)
exhausted. See, Order, p. 48.